IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.8330 OF 2003

Shri Vijay Narayan Thatte & Ors. : Petitioners

(Orig. Applicants)

V/s.

Sau Manda Sadashiv Godbole & Ors. : Respondents

...

Mr.Sarang Avadhye with Ms Swati Deshpande i/b. M/s.M.S. Bodhanwalla & Co., for the petitioners.

Mr.M.V.Sali for respondent no.1.

...

CORAM : S.A. BOBDE, J.

March 17, 2005.

P.C.:

1. The dispute in this petition arises out of a claim made by respondent no.1, that an entry made in the revenue record showing that she has 2/3rd shares in the disputed lands which are inam lands.

2. It appears that by an order dated 11.8.2000, the Additional Collector, Pune, remanded the matter back to the Tahsildar to make a detailed inquiry in respect of the heirship of the parties by permitting both the parties to

lead necessary evidence before him and the Tahsildar was further directed to decide the matter within two months. The parties to the dispute are the petitioners who claimed to be owners of the inam land in question and respondent no.1, who also claims a share in the land. Against the order dated 11.8.2000, the petitioners preferred a revision before the Addl. Commissioner, Pune, who by the impugned order dated 14.2.2002, upheld the order of the Addl. Collector on the ground that the revenue authorities are bound to take cognizance of any legal claims to title. This order is impugned by the petitioners.

3. Having heard both the learned counsel for the parties, I am of view that having regard to the provisions of section 149 of the Maharashtra Land Revenue Code, an inquiry, although not determinative and final, can be made by the revenue authorities upon a report of acquisition of rights to any authority. Any entry made pursuant thereto cannot determine the question of title in the land. This is well-settled by a series of decisions both of the Supreme Court and this Court vide (1997) 7 S.C.C. 137 and 2003 (2) Mah.L.J. 101. The learned counsel for the petitioners has also relied on another judgement reported in 2003 (2) Mah.L.J. 276.

4. Mr.Sali, learned counsel for respondent no.1 in this case submits that respondent no.1 has filed Special Civil Suit no.54 of 1998 in which respondent no.1 has claimed partition, injunction and separate possession. Undoubtedly, shares would be determined by the Civil Court in that case and the parties would be at liberty to apply for mutation in accordance with the finding of the Civil Court. However, having regard to the fact that the impugned order only upholds an order remanding the matter for a detailed inquiry in regard to the heirship, I am not inclined to interfere with the order, particularly in view of the settled position in law that the rights of the parties in the properties can only be determined by a competent civil Court.

5. There is no reason to interfere with the impugned order. The Writ Petition is hereby dismissed with the above observations. Needless to say that the Civil Court shall decide the matter uninfluenced by any observations of the revenue authorities or this Court in this Writ Petition.

6. Certified copy expedited.

Sd/-

S.A. BOBDE, J.